

REMARKS

Claims 5 and 11-12 having been canceled and no claims having been added, the Applicant contends that claims 1-4, 6-10 and 13-14 remain pending and properly under consideration in this application.

Restriction Requirement

The Examiner has requested an election under 35 U.S.C. § 121 among various inventions identified in the originally filed claims of the application, the claim groups and inventions being identified as:

- Group I Claims 1-10, drawn to a polynucleotide, vector and host cell, classified in class 435, subclass 252.3;
- Group II Claims 11-12, drawn to a transgenic plant, classified in class 800, subclass 8; and
- Group III Claims 13-14, drawn to a polypeptide with an amino acid sequence SEQ ID NO: 1, classified in class 435, subclass 200.

Applicant's Election

In response to this restriction requirement, the Applicant elects, with traverse, the invention of claims 1-4 and 6-10 (the Group I claims) drawn to a polynucleotide, vector and host cell.

Argument in Support of Traversal

The Applicant notes that the Group I claims (claims 1-4 and 6-10) and the Group III claims (claims 13 and 14) and are related as the polynucleotide and the polypeptide encoded by the polynucleotide and corresponding to SEQ ID NOS. 1 and 2. The Applicant, therefore, requests additional clarification should the Examiner wish to maintain the position that the polynucleotide and the polypeptide are “chemically unrelated.” The Applicant, therefore, contends that while the polynucleotide and the polypeptide are separate and distinct, they are sufficiently interrelated that no undue burden would result from the simultaneous examination of these two groups of claims.

The Applicant, therefore, requests that the Restriction Requirement be reconsidered and that the Group III claims be examined in conjunction with the elected Group I claims.

CONCLUSION

In view of the above elections, the Applicant submits that the present application in condition for allowance. A notice to that effect is respectfully requested.

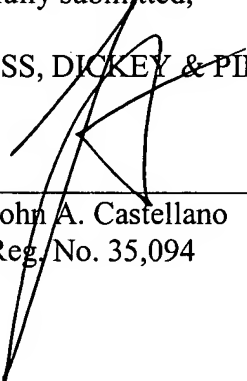
If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge any underpayment or non-payment of any fees required under 37 C.F.R. §§ 1.16 or 1.17, or credit any overpayment of such fees, to Deposit Account No. 08-0750, including, in particular, extension of time fees.

Respectfully submitted,

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By:



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